

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MAY YANG,

Case No. 19-CV-2669 (NEB/DTS)

Plaintiff,

v.

ORDER DENYING OBJECTION TO
MAGISTRATE JUDGE'S ORDER

ROBERT HALF INTERNATIONAL, INC.
and MARCIA A. MILLER,

Defendants.

Plaintiff May Yang objects to United States Magistrate Judge David T. Schultz's order extending the deadline for dispositive motions from September 15, 2021, until October 1, 2021. (ECF No. 273 ("Order"); ECF No. 280 ("Obj.")). Yang argues that Judge Schultz's order violates the pre-trial scheduling order under Rule 16(b)(4) of the Federal Rules of Civil Procedure and Local Rule 16.3. (Obj. at 2.)

The Court reviews an appeal of a magistrate judge's order on a non-dispositive issue for clear error. Fed. R. Civ. P. 72(a) ("The district judge . . . must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law."). The Court has reviewed Judge Schultz's Order and finds that it is not clearly erroneous or contrary to law.

Because the deadline for filing non-dispositive motions has passed, (Order at 1), Yang also seeks the Court's permission to file a motion to remove the Judge of this Court

and Judge Schultz pursuant to 28 U.S.C. Sections 144 and 455. (Obj. at 6, 14–15.) To remove either the Judge of this Court or Judge Schultz under Section 144, Yang must make and file, in good faith, a timely and sufficient affidavit stating the facts and reasons Yang believes the judges have a personal bias or prejudice against her or in favor of Defendants. 28 U.S.C. § 144. Yang has not followed this procedure. Nor has Yang offered a specific basis on which the judges’ “impartiality might reasonably be questioned.” 28 U.S.C. § 455(a); (*see* Obj. at 14–15 (asserting generally “pervasive bias and intentional legal rulings not based in sound legal principles”).) As a result, the Court denies her request to file the motion without prejudice.

Based on the foregoing:

1. Plaintiff’s objection to Judge Schultz’s order extending the deadline for dispositive motions (ECF No. 280) is **OVERRULED**; and
2. Plaintiff’s request to bring a motion to remove the Judge of this Court and Judge Schultz is **DENIED WITHOUT PREJUDICE**.

Dated: September 28, 2021

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge